

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2009-1954-MWD-E    RN101608867    CASE NO. 38706**  
**RESPONDENT NAME: CITY OF DODD CITY**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA</b> (check all that apply)	<input type="checkbox"/> <b>INDUSTRIAL HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>

**SITE WHERE VIOLATION(S) OCCURRED:** approximately 2,200 feet southwest of the intersection of State Highway 897 and U.S. Highway 82, and 2,500 feet southeast of the intersection of U.S. Highway 82 and Farm-to-Market Road 2077, southeast of Dodd City, Fannin County

**TYPE OF OPERATION:** domestic waste water system

**SMALL BUSINESS:**     Yes     No     N/A

**OTHER SIGNIFICANT MATTERS:** There are no complaints related to this enforcement action. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired December 20, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Phillip Goodwin, P.G., Litigation Division, MC 175, (512) 239-3400  
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Jeremy Escobar, Air Enforcement Section, MC 14, (361) 825-3422

**TCEQ Regional Contact:** Sid Slocum, Dallas/Fort Worth Regional Office, MC R-04, (817) 588-5800

**TCEQ SEP Coordinator:** Sharon Blue, Litigation Division, MC 175, (512) 239-3400

**Respondent:** The Honorable Jackie Lackey, Mayor, Dodd City, P.O. Box 129, Dodd City, Texas 75438

**Respondent's Attorney:** Arturo Rodriguez, Jr., Russell & Rodriguez, L.L.P., 1633 Williams Drive, Building 2, Suite 200, Georgetown, Texas 78628

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaint(s):</b> N/A</p> <p><b>Date(s) of Investigation:</b> May 19, 2009</p> <p><b>Date(s) of NOE(s):</b> October 23, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed on April 13, 2010. Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on October 22, 2010.</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation demonstrating compliance with the technical requirements.</p> <p><b>MWD:</b></p> <ol style="list-style-type: none"> <li>Failed to comply with permit effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010538001, Effluent Limits and Monitoring Requirements Nos. 1, 3, and 6].</li> <li>Failed to submit effluent monitoring results at the intervals specified in the permit. [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010538001, Monitoring and Reporting Requirements No. 1].</li> </ol>	<p><b>Total Assessed:</b> \$14,645</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$2,430</p> <p><b>Total Paid/Due to General Revenue:</b> \$470/\$11,745</p> <p>Respondent paid \$470 of the administrative penalty. The remaining amount of \$11,745 shall be payable in 29 monthly payments of \$405 each.</p> <p>Respondent shall contribute \$2,430 to a Supplemental Environmental Project (SEP).</p> <p><b>Compliance History Classifications:</b>  <i>Person/CN</i> – Average  <i>Site/RN</i> – Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 90 days, submit certification of compliance with permit effluent limits, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</li> <li>Implement and complete a SEP (RC&amp;D - Cleanup of Unauthorized Trash Dumps –<i>Red River Basin</i>).</li> </ol>

**Attachment A**  
**Docket Number: 2009-1954-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Dodd City  
**Penalty Amount:** Fourteen Thousand Six Hundred Forty-Five Dollars (\$14,645)  
**SEP Offset Amount:** Two Thousand Four Hundred Thirty Dollars (\$2,430)  
**Type of SEP:** Pre-approved SEP  
**Third-Party** Texas Association of Resource Conservation & Development  
**Recipient:** Areas, Inc. ("RC&D") - *Cleanup of Unauthorized Trash Dumps*  
**Location of SEP:** Red River River Basin 2 (preference for Fannin County)

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The SEP contribution will be used by the ***Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")*** for the *Cleanup of Unauthorized Trash Dumps* project. Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to clean up sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be identified, where there is no preexisting obligation to clean up the site by the owner or the government and where reasonable efforts have already been taken to prevent the dumping. The SEP Offset Amount may be used for the direct cost of collection and disposal or recycling of debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The project will be administered in accordance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The *Cleanup of Unauthorized Trash Dumps* project will provide a discernable environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C.     Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2.     Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third-Party Recipient on the following payment schedule: six payments of \$405 for a total of \$2,430. The Respondent shall mail a copy of the Final Agreed Order with the first contribution within 30 days of the effective date of this Order to:

Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)  
Attention: Amy Brown  
1716 Briarcrest Drive, Suite 507  
Bryan, Texas 77802-2700

Thereafter, the Respondent shall make each additional contribution 30 days following the first contribution.

**3.     Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4.     Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	26-Oct-2009	<b>Screening</b>	10-Nov-2009	<b>EPA Due</b>	
	<b>PCW</b>	22-Mar-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Dodd City
<b>Reg. Ent. Ref. No.</b>	RN101608867
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	38706	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2009-1954-MWD-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jeremy Escobar	
		<b>EC's Team</b>	Enforcement Team 3	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,300
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	265.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$11,395
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Notes: The penalty is enhanced due to 47 self-reported effluent violations, two NOVs with same or similar violations to the ones cited in this action, and one 1660 order with a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,286  
 Approx. Cost of Compliance: \$10,500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$15,695
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-6.7%	<b>Adjustment</b>	-\$1,050
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that monthly self-reported violations do not overly impact the penalty amount.

<b>Final Penalty Amount</b>	\$14,645
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$14,645
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<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$14,645
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**Screening Date** 10-Nov-2009

**Docket No.** 2009-1954-MWD-E

**PCW**

**Respondent** City of Dodd City

Policy Revision 2 (September 2002)

**Case ID No.** 38706

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101608867

**Media [Statute]** Water Quality

**Enf. Coordinator** Jeremy Escobar

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	49	245%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 265%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The penalty is enhanced due to 47 self-reported effluent violations, two NOVs with same or similar violations to the ones cited in this action, and one 1660 order with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 265%

**Screening Date** 10-Nov-2009 **Docket No.** 2009-1954-MWD-E **PCW**  
**Respondent** City of Dodd City *Policy Revision 2 (September 2002)*  
**Case ID No.** 38706 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101608867  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jeremy Escobar

**Violation Number** 1  
**Rule Cite(s)** Texas Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010538001, Effluent Limits and Monitoring Requirements Nos. 1, 3, and 6  
**Violation Description** Failed to comply with permit effluent limits, as documented in a record review conducted on May 19, 2009, and depicted in the table below.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>			Percent
	Major	Moderate	Minor	
	Actual		x	
	Potential			10%

**>> Programmatic Matrix**

	Major	Moderate	Minor	Percent
				0%

**Matrix Notes**  
 A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids and dissolved oxygen and pH were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

**Adjustment** \$9,000  
 \$1,000

**Violation Events**

Number of Violation Events 4 243 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$4,000

Four quarterly events are recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)

**Notes**  
 The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$4,000

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

Estimated EB Amount \$1,251 **Violation Final Penalty Total** \$13,623  
**This violation Final Assessed Penalty (adjusted for limits)** \$13,623

## Economic Benefit Worksheet

**Respondent** City of Dodd City  
**Case ID No.** 38706  
**Reg. Ent. Reference No.** RN101608867  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Mar-2008	30-Sep-2010	2.50	\$1,251	n/a	\$1,251

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the expected date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$1,251

**Screening Date** 10-Nov-2009 **Docket No.** 2009-1954-MWD-E **PCW**  
**Respondent** City of Dodd City *Policy Revision 2 (September 2002)*  
**Case ID No.** 38706 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101608867  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jeremy Escobar

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(17), and 319.1 and TPDES Permit No. WQ0010538001, Monitoring and Reporting Requirements No. 1  
**Violation Description** Failed to submit effluent monitoring results at the intervals specified in the permit, as documented in a record review conducted on May 19, 2009. Specifically, the discharge monitoring reports ("DMRs") submitted for the monitoring periods ending May 31, 2008, June 30, 2008, and August 31, 2008 did not include the flow daily maximum parameters.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
				x	
Greater than 70% of the rule requirement was met.					

**Adjustment** \$9,900

\$100

**Violation Events**

Number of Violation Events 3 532 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

*mark only one with an x*

**Violation Base Penalty** \$300

Three single events are recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

**Notes** The Respondent submitted the corrected DMRs on November 13, 2009.

**Violation Subtotal** \$300

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$35 **Violation Final Penalty Total** \$1,022

**This violation Final Assessed Penalty (adjusted for limits)** \$1,022

## Economic Benefit Worksheet

**Respondent** City of Dodd City  
**Case ID No.** 38706  
**Reg. Ent. Reference No.** RN101608867  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	20-Jun-2008	13-Nov-2009	1.40	\$35	n/a	\$35
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the DMRs. Date required is the first day of noncompliance. Final date is the date the revised DMRs were submitted.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$35

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600665228 City of Dodd City	Classification: AVERAGE	Rating: 3.32
Regulated Entity:	RN101608867 DODD CITY	Classification: AVERAGE	Site Rating: 3.32
ID Number(s):	WASTEWATER	PERMIT	WQ0010538001
	WASTEWATER	PERMIT	TPDES0057169
	WASTEWATER	PERMIT	TX0057169
	WASTEWATER LICENSING	LICENSE	WQ0010538001
Location:	LOCATED APPROXIMATELY 2200 FT SW OF THE INTERSECTION OF SH897 AND US HWY 82 AND APPROXIMATELY 2500 FT SE OF THE INTERSECTION OF US HWY 82 AND FM 2077 SE OF DODD CITY IN FANNIN COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 09, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 10, 2004 to November 10, 2009		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
**Name:** Jeremy Escobar **Phone:** (512) 239 - 1460

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

**Effective Date: 05/28/2006** **ADMINORDER 2005-0740-MWD-E**  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: Final Effluent Limitations & MR PERMIT  
 Description: Failed to maintain compliance with the permitted effluent limits.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 312, SubChapter F 312.123  
 Rqmt Prov: Sludge Provisions PERMIT  
 Description: Failure to submit an annual sludge report that was due on September 1, 2004.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/13/2004	(384762)
2	02/09/2005	(249796)
3	02/15/2005	(384759)
4	02/15/2005	(384760)
5	02/25/2005	(384763)
6	03/01/2005	(443641)
7	03/09/2005	(350809)
8	03/23/2005	(384758)
9	04/20/2005	(443642)
10	05/20/2005	(443643)
11	06/28/2005	(443644)
12	06/29/2005	(381037)
13	07/22/2005	(443645)
14	08/26/2005	(443646)
15	09/01/2005	(443647)
16	09/22/2005	(443648)
17	10/31/2005	(473678)
18	12/12/2005	(473679)
19	12/21/2005	(473680)
20	02/16/2006	(473681)
21	02/22/2006	(473676)
22	03/20/2006	(473677)
23	04/20/2006	(501725)
24	05/17/2006	(501726)
25	06/20/2006	(501727)
26	07/20/2006	(523993)
27	09/20/2006	(523994)
28	10/20/2006	(548992)
29	11/27/2006	(548993)
30	12/21/2006	(548994)
31	01/12/2007	(582404)
32	02/21/2007	(582399)
33	03/19/2007	(582401)
34	03/23/2007	(553993)
35	03/23/2007	(582400)
36	05/23/2007	(582402)
37	06/20/2007	(582403)
38	08/31/2007	(603587)
39	08/31/2007	(603588)
40	09/20/2007	(603589)
41	10/17/2007	(622176)
42	11/26/2007	(622177)
43	12/28/2007	(622178)
44	01/25/2008	(673951)
45	02/25/2008	(673950)

46 03/20/2008 (692216)  
 47 04/22/2008 (692217)  
 48 05/20/2008 (692218)  
 49 06/20/2008 (713318)  
 50 07/17/2008 (713319)  
 51 08/22/2008 (713320)  
 52 09/15/2008 (713321)  
 53 10/20/2008 (729409)  
 54 11/20/2008 (729410)  
 55 12/12/2008 (706669)  
 56 12/30/2008 (729411)  
 57 01/21/2009 (752622)  
 58 02/26/2009 (752621)  
 59 03/23/2009 (770291)  
 60 04/30/2009 (770292)  
 61 05/26/2009 (746048)  
 62 05/27/2009 (770293)  
 63 10/23/2009 (746288)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

1	Date:	11/30/2004	(384762)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
2	Date:	12/31/2004	(384763)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
3	Date:	01/31/2005	(443641)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
4	Date:	02/28/2005	(384758)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
5	Date:	03/31/2005	(443642)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
6	Date:	04/30/2005	(443643)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
7	Date:	05/31/2005	(443644)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
8	Date:	06/27/2005	(381037)	CN600665228	
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet permit limits for fecal coliform.			
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet permit limits for pH.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to report effluent violations which deviate from the permitted effluent limits by more than 40% within five working days of becoming aware of the noncompliance.			
	Self Report?	NO		Classification:	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet permitted effluent limit requirements.			
9	Date:	06/30/2005	(443645)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
10	Date:	07/31/2005	(443646)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
11	Date:	08/31/2005	(443648)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			
12	Date:	09/30/2005	(473678)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
	Description:	Failure to meet the limit for one or more permit parameter			



	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description:	Failure to meet the limit for one or more permit parameter		
31	Date:	04/30/2007 (582402)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description:	Failure to meet the limit for one or more permit parameter		
32	Date:	05/31/2007 (582403)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description:	Failure to meet the limit for one or more permit parameter		
33	Date:	06/30/2007 (603587)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	Description:	30 TAC Chapter 305, SubChapter F 305.125(1) Failure to meet the limit for one or more permit parameter		
34	Date:	09/30/2007 (622176)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
35	Date:	10/31/2007 (622177)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
36	Date:	12/31/2007 (673951)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
37	Date:	01/31/2008 (673950)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
38	Date:	02/29/2008 (692216)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
39	Date:	03/31/2008 (692217)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
40	Date:	07/31/2008 (713320)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
41	Date:	08/31/2008 (713321)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
42	Date:	09/30/2008 (729409)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
43	Date:	10/31/2008 (729410)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
44	Date:	11/30/2008 (729411)	CN600665228	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
45	Date:	12/11/2008 (706669)	CN600665228	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet permit limits for total suspended solids. The analytical result for the sample obtained during the investigation was 110 mg/l. The permit limit for a single grab sample is 90 mg/l.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet permit limits for pH. The pH obtained during the investigation was 9.8. The maximum pH limit is 9.0.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet effluent permit limit requirements for BOD, TSS, pH, DO and fecal coliform.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to report effluent violation that exceeds 40% of the permit limits within five working days of becoming aware of the noncompliance.		

	Self Report?	NO		Classification:	Minor
	Citation:		30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:		Failure to maintain one of the treatment units. The imhoff tank is full of scum and grit.		
	Self Report?	NO		Classification:	Minor
	Citation:		30 TAC Chapter 305, SubChapter F 305.125(7) 30 TAC Chapter 305, SubChapter F 305.126(b)		
	Description:		Failure to submit notification of completion of one of the treatment units.		
46	Date:	01/31/2009	(752621)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		
47	Date:	02/28/2009	(770291)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		
48	Date:	03/31/2009	(770292)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		
49	Date:	04/30/2009	(770293)	CN600665228	
	Self Report?	YES		Classification:	Moderate
	Citation:		2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:		Failure to meet the limit for one or more permit parameter		
F.	Environmental audits.				
			N/A		
G.	Type of environmental management systems (EMSs).				
			N/A		
H.	Voluntary on-site compliance assessment dates.				
			N/A		
I.	Participation in a voluntary pollution reduction program.				
			N/A		
J.	Early compliance.				
			N/A		
	Sites Outside of Texas				
			N/A		

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF DODD CITY;  
RN101608867**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1954-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding the City of Dodd City ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Arturo Rodriguez, Jr. of the law firm of Russell & Rodriguez, L.L.P., appear before the Commission and together stipulate that:

1. Respondent owns and operates a domestic waste water system located approximately 2,200 feet southwest of the intersection of State Highway 897 and U.S. Highway 82, and 2,500 feet southeast of the intersection of U.S. Highway 82 and Farm-to-Market Road 2077, southeast of Dodd City, Fannin County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of Tex. Water Code ch. 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of fourteen thousand six hundred forty-five dollars (\$14,645.00) is assessed by the Commission in settlement of the violations alleged in Section II. Pursuant to Tex. Water Code § 7.067, two thousand four hundred thirty dollars (\$2,430.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). The conditionally offset amount of two thousand four hundred thirty dollars (\$2,430.00) shall be payable to the SEP in six (6) monthly payments of four hundred five dollars (\$405.00) each. The initial payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be

paid not later than 30 days following the due date of the previous payment. Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement as determined by the Executive Director.

Respondent paid four hundred seventy dollars (\$470.00) of the administrative penalty. The remaining amount of eleven thousand seven hundred forty-five dollars (\$11,745.00) shall be payable in twenty-nine (29) monthly payments of four hundred five dollars (\$405.00) each. The first monthly payment shall be paid within 210 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During a record review conducted on May 19, 2009, a TCEQ Central Office investigator documented that Respondent violated:
  - a. TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010538001, Effluent Limits and Monitoring Requirements Nos. 1, 3, and 6, by failing to comply with permit effluent limits, as illustrated in the following table:

Effluent Violation Table City of Dodd City Docket No. 2009-1954-MWD-E, TPDES Permit No. WQ0010538001 Case No. 38706 RN101608867				
Permitted Effluent Limits	BOD Daily Avg. Conc. 30 mg/l	TSS Daily Avg. Conc. 90 mg/l	DO Monthly Min. Conc. 4.0 mg/l	pH Daily Maximum 9.0 standard units
March 2008	30.3	-	-	-
July 2008	-	-	1.5	-
August 2008	-	-	2.4	9.2
September 2008	-	-	2.9	-
October 2008	-	102	-	-
November 2008	-	94	-	-
January 2009	42.8	142.5	-	-
February 2009	30.7	101	-	-

BOD = Biochemical Oxygen Demand	DO = Dissolved Oxygen	Min. = Minimum	Avg. = Average	Conc. = Concentration	Mg/l = Milligrams per Liter	TSS = Total Suspended Solids
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- b. 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010538001, Monitoring and Reporting Requirements No. 1, by failing to submit effluent monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring report (“DMR”) submitted for the monitoring periods ending May 31, 2008, June 30, 2008, and August 31, 2008 did not include the flow daily maximum parameters.
2. Respondent received notice of the violations on or about October 28, 2009.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: City of Dodd City, Docket No. 2009-1954-MWD-E” to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph 5, above. The amount of two thousand four hundred thirty dollars (\$2,430.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment. Checks shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Dodd City, Docket No. 2009-1954-MWD-E to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. Respondent shall, within 90 days after the effective date of this Agreed Order, submit certification of compliance with the effluent limits of TPDES Permit No. WQ0010538001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Dodd City shall submit the written certification and copies of documentation necessary to demonstrate compliance with this Ordering Provision to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

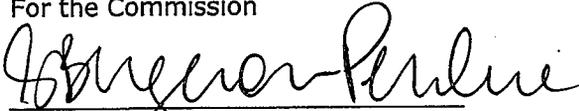
4. All relief not expressly granted in this Agreed Order is denied.
5. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission



For the Executive Director

12/17/2010

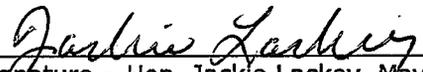
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the City of Dodd City, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

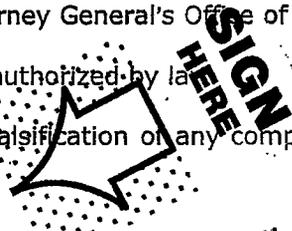
I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
Signature - Hon. Jackie Lackey, Mayor

10-22-10  
Date



**Attachment A**  
**Docket Number: 2009-1954-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Dodd City  
**Penalty Amount:** Fourteen Thousand Six Hundred Forty-Five Dollars (\$14,645)  
**SEP Offset Amount:** Two Thousand Four Hundred Thirty Dollars (\$2,430)  
**Type of SEP:** Pre-approved SEP  
**Third-Party Recipient:** Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") - *Cleanup of Unauthorized Trash Dumps*  
**Location of SEP:** Red River River Basin 2 (preference for Fannin County)

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The SEP contribution will be used by the ***Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")*** for the *Cleanup of Unauthorized Trash Dumps* project. Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to clean up sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be identified, where there is no preexisting obligation to clean up the site by the owner or the government and where reasonable efforts have already been taken to prevent the dumping. The SEP Offset Amount may be used for the direct cost of collection and disposal or recycling of debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The project will be administered in accordance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The *Cleanup of Unauthorized Trash Dumps* project will provide a discernable environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C.      Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2.      Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third-Party Recipient on the following payment schedule: six payments of \$405 for a total of \$2,430. The Respondent shall mail a copy of the Final Agreed Order with the first contribution within 30 days of the effective date of this Order to:

Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)  
Attention: Amy Brown  
1716 Briarcrest Drive, Suite 507  
Bryan, Texas 77802-2700

Thereafter, the Respondent shall make each additional contribution 30 days following the first contribution.

**3.      Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4.      Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.